

HOUSE BILL NO. 537

INTRODUCED BY WANZENRIED, CLARK, GALVIN-HALCRO, JAYNE, JOPEK, NOONAN, BUZZAS,
LINDEEN, GOLIE, BIXBY, GALLIK, BRANAE, SMALL-EASTMAN, DOWELL, RASER, GRINDE,
GROESBECK, WILSON, VILLA, CALLAHAN, MCALPIN

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE ADVERSE USE OF INQUIRIES REGARDING
INSURANCE COVERAGE; AMENDING SECTION 33-15-1105, MCA; AND PROVIDING AN EFFECTIVE
DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-15-1105, MCA, is amended to read:

"33-15-1105. Nonrenewal -- renewal premium. (1) (a) An insured has a right to reasonable notice of
nonrenewal. Unless otherwise provided by statute or unless a longer term is provided in the policy, at least 45
days prior to the expiration date provided in the policy, an insurer who does not intend to renew a policy beyond
the agreed expiration date shall mail or deliver to the insured a notice of the intention not to renew. The insurer
shall also mail or deliver a copy to the insured's insurance producer.

(b) Notification or nonrenewal to the insured's insurance producer via electronic transfer of data or by
an electronic data retrieval device meets the requirement of a mailed or delivered copy.

(2) An insurer shall give notice of premium due not more than 60 days or less than 10 days before the
due date of a renewal premium. The notice must clearly state the effect of nonpayment of the premium on or
before the due date.

(3) Subsections (1) and (2) do not apply if:

(a) the insured has obtained insurance elsewhere, has accepted replacement coverage, or has
requested or agreed to nonrenewal; or

(b) the policy is expressly designated as nonrenewable.

(4) An insurer may not refuse to renew a property and casualty insurance policy on the basis of a single
loss occurring during the policy period unless the insurer has previously disclosed in writing to the insured, at
the time that the insured applied for the insurance or prior to the insured's renewal, that a single loss is among
the insurer's criteria for nonrenewal.

~~(5) (a) (i) An inquiry by an insured into whether a PROPERTY AND CASUALTY INSURANCE policy covers a loss or regarding the type or level of coverage is not a claim. An inquiry into coverage on a property AND CASUALTY insurance policy is not claim activity unless an actual claim is filed by the insured that results in an investigation and payment of or denial of the claim by the insurer:~~

~~—— (A) A PAYMENT IS MADE, A RESERVE IS ESTABLISHED, OR LOSS ADJUSTMENT EXPENSES ARE INCURRED; AND~~

~~—— (B) A WRITTEN, FORMAL DENIAL OF THE CLAIM IS ISSUED TO THE INSURED OR CLAIMANT. FOR THE PURPOSES OF THIS SUBSECTION (5), THE FOLLOWING DEFINITIONS APPLY:~~

~~(i) "CLAIM" MEANS A CONTACT WITH AN INSURER BY AN INSURED OR THIRD PARTY FOR THE PURPOSE OF SEEKING PAYMENT. AN INQUIRY INTO COVERAGE ON A PROPERTY AND CASUALTY INSURANCE POLICY IS NOT CLAIM ACTIVITY UNLESS:~~

~~(A) A PAYMENT IS MADE;~~

~~(B) A RESERVE IS ESTABLISHED OR LOSS ADJUSTMENT EXPENSES ARE INCURRED; OR~~

~~(C) A WRITTEN, FORMAL DENIAL OF THE CLAIM IS ISSUED TO THE INSURED OR CLAIMANT.~~

~~(ii) "INQUIRY" MEANS A REQUEST FOR INFORMATION REGARDING THE TERMS, CONDITIONS, OR COVERAGES OFFERED UNDER A PROPERTY AND CASUALTY INSURANCE POLICY THAT DOES NOT RESULT IN A CLAIM.~~

~~(iii)(B) An insurer may not use a direct or indirect inquiry described in subsection (5)(a)(i) as the basis for declining or not renewing insurance coverage or a binder of insurance coverage or for increasing the insurance premium.~~

~~(iii)(C) AN INQUIRY MAY NOT BE CONSIDERED A CLAIM UNDER 33-18-201.~~

~~(b)(D) An insurer may not submit to any insurance support organization or consumer reporting agency an insured's name if the insured inquired only MADE AN INQUIRY about terms or coverage of an insurance policy.~~

~~(C) FOR THE PURPOSES OF THIS SUBSECTION (5), THE FOLLOWING DEFINITIONS APPLY:~~

~~—— (i) "CLAIM" MEANS A CONTACT WITH AN INSURER BY AN INSURED OR THIRD PARTY FOR THE PURPOSE OF SEEKING PAYMENT:~~

~~—— (ii) "INQUIRY" MEANS A REQUEST FOR INFORMATION REGARDING THE TERMS, CONDITIONS, OR COVERAGES OFFERED UNDER A PROPERTY AND CASUALTY INSURANCE POLICY THAT DOES NOT RESULT IN A CLAIM."~~

NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2005.

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